

October 5, 2006

BY E-MAIL AND BY HAND

Kenneth M. Scheibel, Jr., Esq.

- and -

Eric J. Bash, Assistant Chief  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
c/o NATEK  
9300 East Hampton Drive  
Capitol Heights, Maryland 20743

Re: Station WPVI-TV, Philadelphia, PA  
Station KABC-TV, Los Angeles, CA  
File No. EB-06-IH-1388

Dear Messrs. Scheibel and Bash:

We represent ABC, Inc., licensee of WPVI-TV ("WPVT"), Philadelphia, and ABC Holding Company, Inc., licensee of KABC-TV ("KABC"), Los Angeles. We are writing in response to the FCC's letter of inquiry dated August 11, 2006 concerning the use of video news releases ("VNRs") or satellite media tours ("SMTs") in news reports aired by WPVI on November 23, 2005 and KABC on September 21, 2005. What follows, in narrative form, are the answers to your questions.

Question 1

*WPVT:*

A news report on "toy trends" was broadcast by WPVI in its morning newscast on November 23, 2005, which runs from 5:00 to 7:00 AM. The segment reported on popular new toys hitting the market.

The report was prepared by WPVI field producer Robert C. Timms. Neither Mr. Timms nor anyone else in the WPVI News Department recalls receiving a VNR on this subject, and Mr. Timms does not believe he incorporated any VNR material in his report. The report did include excerpts from interviews conducted by Mr. Timms with several people

made available to him for interviews as part of a satellite media tour ("SMT"), along with some product shots that the SMT sponsors provided for possible use in any eventual report. The video may also have included some generic holiday footage from the SMT sponsors, although Mr. Timms is not sure if that was the source of this footage.

Mr. Timms does not recall exactly how he became aware of the satellite media tour. He believes that he received notice of the tour in early to mid-November, but he does not recall the specifics of the notice, the person or persons from whom it was received, or the precise date. If the notice was in writing, he did not retain a copy. According to the Center for Media and Democracy ("CMD"), a live SMT on toy trends was coordinated by DS Simon Productions on behalf of Panasonic, Namco and Techno Source. Mr. Timms does not have any specific recollection of how the SMT invitation to WPVI was labeled or what specific information if any it provided about its sponsors.

Toy trends are newsworthy in Philadelphia, and around the country, as parents seek to buy gifts for their children for the winter holidays. Mr. Timms believed that the people being made available on the SMT were neutral experts about toy trends, rather than spokespeople for particular products or companies, in part because he was already familiar with at least two of the people being offered as interview subjects.

One of the interview subjects, Robin Raskin, had been interviewed on WPVI and in numerous other media outlets before the time of this media tour. She presented herself as an independent expert and typically referred to herself as either "The Internet Mom" or as someone from the *Princeton Review*, where she served as the Director of Communications. She had also been the editor in chief of *Family PC* and a columnist for *USA Today Online*. Mr. Timms believes that neither Ms. Raskin nor anyone else revealed to him that at the time of this interview she was being paid by Techno Source or any other company.

During the time of this satellite interview, another interview subject, Corey Greenberg, had appeared as an independent expert in numerous outlets, including the morning news show of another network, and Mr. Timms was unaware that he had any affiliation with any particular companies or products. Mr. Timms believes that a third person made available on satellite, David Gregg, was presented by the tour organizers merely as a video gaming expert, while Scott McCall was identified to him (and later, by him in the WPVI report) as a Wal-Mart representative and not a representative of any particular manufacturing company or product.

Based on this history and representations, Mr. Timms did not believe that additional questioning regarding the interviewees' representation was necessary.

Mr. Timms personally interviewed Ms. Raskin, Mr. Greenberg, Mr. Gregg and Mr. McCall by satellite. He conducted the interviews himself so that he could choose the questions being asked and could control the flow of the interviews. His questions were informed by his general knowledge of the industry, and were not confined to any

particular manufacturer or product. His purpose was to identify hot trends in the toy industry and not to highlight any particular product or manufacturer.

Neither the producer nor WPVI promised or represented to anyone that any material from the interviews would be broadcast. WPVI and Mr. Timms received absolutely nothing in exchange for conducting the interviews or for using any of the interview footage in the report. Indeed, WPVI's News Department never accepts payment or other valuable consideration of any kind in exchange for news coverage nor promises news coverage in exchange for payment or valuable consideration of any kind.

Mr. Timms' interviews of Ms. Raskin and Messrs. Greenberg, Gregg and McCall were video-recorded, and the video-recordings of these interviews, along with some product and other video provided by the SMT organizers, were shipped to WPVI at some point thereafter for possible inclusion in any future WPVI report. Mr. Timms wrote and edited the report on toy trends that was ultimately broadcast on WPVI on November 23, 2005. Portions of the four SMT interviews and video, selected by Mr. Timms, were used in this report. The report was voiced by a station news reporter reading the script that Mr. Timms provided. The report referred to products by a variety of companies, including but not limited to the companies for which CMD claims the SMT was arranged. For example, the portion of reporter track introducing the sound bite from Robin Raskin about Coleco from Techno Source mentioned the competing Atari and Intellivision products as well as the Techno Source product.

WPVI identified the interview subjects with graphics, prepared at the station, indicating what WPVI believed at the time were accurate slugs. Mr. Greenberg was identified as a "tech expert," Mr. Gregg as a "video gaming expert," Robin Raskin as "The Internet Mom," and Scott McCall as a "toy expert" from "Wal-Mart."

Two VHS videotape copies of the "file tape" of the November 23 news report were hand-delivered to the Commission earlier today. A transcript of that report is enclosed with this letter. WPVI no longer has an "air check" or "show tape" copy of this report as originally broadcast. Typically, "air checks" are recycled within a couple of months of air. The file tapes, which are preserved for longer, consist of the pre-taped package with reporter track, interviews and video used in the pre-taped piece, and do not reflect any anchor or other studio voiceover or chyrons (graphics) added to interview or other segments after the original editing. Therefore, the tapes provided with this letter do not reflect the visual identification of the interview subjects that appeared on the report as ultimately broadcast. The wording of those identifying labels have instead been added in *italics* to the transcript of the report.

Had WPVI been aware that Mr. Greenberg, Mr. Gregg or Ms. Raskin were speaking on behalf of a particular company or product, its policy would have required at a minimum that the organizational affiliation of those interview subjects be disclosed on air. After their representation came to light, WPVI's News Director instructed Mr. Timms and the entire news staff that in future, any news employees conducting satellite media tour

interviews should explicitly ask each person being interviewed if they are paid by any of the companies being discussed.

*KABC:*

A report containing video taken from a VNR was broadcast by KABC on September 27, 2005 during the 5:00 PM newscast. The segment reported on a new allergy test that could help diagnose the cause of chronic cold-like symptoms in children.

The report was prepared by KABC reporter Denise Dador, the station's health reporter. Ms. Dador first became aware of the VNR through an email that announced its availability and described its contents. She did not retain a copy of the email or of the VNR that the station recorded from a satellite feed, and she no longer recalls the specifics of any such material, the person(s) from whom it was received, or the date(s) on which it was received. According to the CMD, the VNR was produced on behalf of Quest Diagnostics. The reporter does not have any specific recollection of how the VNR was labeled or what information she had about its producers.

Information about allergies and chronic cold conditions is newsworthy in Los Angeles because of high pollen counts and pollution. This particular test was newsworthy because it presented a relatively easy means of confirming or dismissing treatable allergies as a source of a child's condition. The report was broadcast without disclosure that it contained material from a VNR. The report mentioned the name of the test ("ImmunoCAP") and reported that its results can be analyzed by Quest Diagnostics. The test itself is not manufactured by Quest Diagnostics, and Quest is one of many laboratories that can process the test results.

In preparing the report, Ms. Dador checked out the information provided in the VNR with Dr. Jacob Offenberger, an allergy specialist in Los Angeles whom the reporter had used as a source in the past and who had no connection to Quest or to the VNR. Dr. Offenberger is a board-certified allergist, a Fellow with the American Academy of Pediatrics, and a Fellow with the American Academy of Asthma and Immunology. In a telephone interview with Ms. Dador, Dr. Offenberger confirmed the accuracy of the information contained in the VNR and the efficacy of the new test. The reporter did not believe that it was necessary to conduct an on-camera interview with Dr. Offenberger for inclusion in the report given its relatively brief length.

The KABC report incorporated substantial video and audio material from the VNR, including an interview with a mother and her child, as well as a discussion of the new test by a doctor, Dean Mitchell, who was identified as a board-certified allergist. Ms. Dador provided tracking narration, which closely mirrored the VNR script.

The reporter and the station did not promise or represent to anyone that any of the VNR material would be broadcast and received absolutely nothing in exchange for use of VNR material in the report. Indeed, KABC's News Department strictly forbids (i) the receipt



of payment or other valuable consideration of any kind in exchange for news coverage or (ii) the promise of news coverage in exchange for payment or valuable consideration of any kind.

Two VHS copies of the KABC report as broadcast were hand-delivered to the Commission earlier today. A transcript of the report is enclosed with this letter.

Except for the CMD press release, the reporter and the station did not receive any complaints about the accuracy of its report or any other aspects of the report.

The September 27 report violated KABC's longstanding policies regarding VNRs. After the Station's News Director, Cheryl Fair, became aware that the September 27 report had made such unattributed use of VNR material, she admonished the reporter and took steps to firmly remind all news employees of the policy against the use of VNR material in news except under limited circumstances, with proper attribution, as described more fully below.

#### Question 2

Neither ABC Holding Company, Inc. nor any of its employees or representatives received or were promised any consideration, from any source, in exchange for airing VNR program material on KABC. Neither ABC, Inc. nor any of its employees or representatives received or were promised any consideration, from any source, in exchange for participating in interviews made available through SMTs or airing portions of those interviews and related video on WPVI. Indeed, KABC's and WPVI's News Departments, and the News Departments of their eight sister ABC owned television stations, strictly forbid (i) the receipt of payment or other valuable consideration of any kind in exchange for news coverage and (ii) the promise of news coverage in exchange for payment or valuable consideration of any kind.

#### Question 3

(a) The ten television stations directly or indirectly licensed to ABC, Inc., including but not limited to KABC and WPVI (collectively, the "ABC Stations"), comply fully with 47 U.S.C. § 317 of the Communications Act of 1934, as amended, and the Commission's sponsorship identification rules. The ABC Stations identify on air any material for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the ABC Stations, from any person. In addition, where a report has been made to any of the ABC Stations of circumstances that would have required an announcement had the consideration been received by one of the Stations, an appropriate announcement is made. The ABC Stations also exercise reasonable diligence to obtain from their employees, and from other persons with whom they deal in connection with any program or program matter for broadcast, information to enable them to make the appropriate announcements.

(b) The ABC Stations have a longstanding policy of not airing video news release ("VNR") packages as news reports, and of using video and sound bites from VNR packages in news reports only in limited circumstances and with appropriate attribution of the source of the material or the affiliation of the speakers. ABC Stations may occasionally use excerpted video or interview material from VNR packages or other hand-out video material from corporate, government, or other sources when the excerpt is relevant and newsworthy to a station-produced news report – e.g., a shot of a new car from a VNR in a station news report about new trends in fuel efficient automobiles, or an excerpt from a company spokesman touting a product in a station news report presenting criticism of that product's safety. The Stations may also on occasion use in a generic fashion material taken from a VNR that does not show or promote any product, service or cause – e.g., footage of unidentifiable doctors in an operating room or of unidentifiable people in a park. In using VNR material, it is the Stations' policy to identify the source of the material whenever it is appropriate and relevant to the viewer's understanding or evaluation of the information being presented. Thus, in the examples given above, it would be Station policy clearly to identify the source of the interview excerpt from the company spokesman. It might not be deemed necessary, however, to identify the source of generic unidentifiable doctor footage in a piece which has nothing to do with the product or service that was the subject of the VNR from which the material has been taken.

The ABC Stations occasionally conduct interviews with interview subjects made available in satellite media tours ("SMTs") when such interviews can provide newsworthy information. If such interview material is used, it is the ABC Stations' policy to appropriately identify the interview subjects' affiliation or employment as best they know it. This reflects the ABC Stations' general news policy of disclosing as accurately and fairly as possible to our viewers the affiliation, employment, or identification of interview subjects as best they know it whenever that is appropriate and relevant to the viewers' understanding or evaluation of the information being presented in the interview. Any use of product, crowd shot, or other video provided via the SMT would be subject to the same ABC Station policies as the use of VNR material described above.

After the events at issue here came to light, WPVI and KABC reiterated their VNR and SMT policies to their news staff, including the staff involved in the particular incidents. WPVI also instructed its staff that in future, if they participate in an SMT, they should explicitly ask interview subjects whether they are paid to represent any particular company or product and if so to identify them as such if their interviews are used, regardless of any past history the reporter has with the interview subject.

#### Question 4

Videotapes and transcripts of the WPVI and KABC reports at issue were hand-delivered to the Commission earlier today. No other responsive materials are available.

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The ABC Stations firmly believe that sound news policy requires that the affiliation of news interview subjects be identified to the extent that such affiliation is known or can easily be discovered and is relevant and material to the interview. The Stations also firmly believe that promotional materials provided by a company or entity should be used in news reports only in limited circumstances and, if used, should be properly identified and attributed unless such identification is unnecessary given the material's context and use. The news reports that are the subject of this LOI both lacked the kind of appropriate source identification that WPVI, KABC, and the other ABC Stations' News Departments strive for as a matter of good journalistic practice. Following the incidents, news management at WPVI and KABC took steps to remind all news personnel of their policies in this area.

Nevertheless, we do not believe that the failure to provide full identification of source or affiliation in the instant cases was a violation of the sponsorship identification provisions of the Communications Act or the FCC rules promulgated thereunder. In neither case did the Station receive any money, service or other valuable consideration from the source or enter into a quid pro quo agreement to include matter in a broadcast in exchange for such consideration. For the FCC to require and to police the identification of the sources of broadcast journalists' material or interviews as a matter of law in the absence of a quid pro quo agreement with the source and the broadcaster's receipt of valuable consideration beyond the material or information itself would go far beyond the plain meaning of the statutes and regulation at issue, far beyond their original intent, and far beyond any previous interpretation they have received. It would also be flatly at odds with the First Amendment protection for broadcast journalists' newsgathering and editorial activities.

The Commission bases its authority for this inquiry, and its prior April 2005 Public Notice regarding video news release in MB Docket No. 05-171, primarily on the sponsorship identification statute contained in section 317 of the Communications Act of 1934, as amended, and section 73.1212 of the Commission's rules. But this statute and rule do not apply by their terms to the mere receipt by a station of free interview material or video for possible use in a news report.

The classic case requiring sponsorship identification is that in which a broadcast station directly received money, service or other valuable consideration in exchange for promotional mention of particular products, services or companies. See 47 U.S.C. § 317(a); 47 C.F.R. § 1212(a). See also Letter to Earl Glickman, President, General Media Associates, 230 North Michigan Avenue, Chicago, Illinois 60601, 3 F.C.C.2d 326, 7 R.R.2d 176 (1966) (illegal to solicit payments from clients desirous of station including certain matter in programs without including in such programs the fact that those third parties paid station for inclusion of that matter). Section 317(a)(1) of the Communications Act of 1934, 47 U.S.C. § 317(a)(1), requires that

All matter broadcast by any . . . station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person.

Accord 47 C.F.R. § 1212(a). However, the same section of the statute immediately goes on to say:

*Provided*, That “service or other valuable consideration” shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

Id.; accord 47 U.S.C. § 508(f); 47 C.F.R. § 121(a)(2). Until Congress added this proviso to the statute, the Commission was attempting to interpret section 317 as requiring sponsorship disclosure of all material provided to stations for free or for a nominal charge. See In re Complaint of National Association for Better Broadcasting against Television Station KCOP(TV), Los Angeles, California, 4 FCC Rcd. 4988, 66 R.R.2d 889 (1989) at ¶ 15. This proviso was enacted by Congress in 1960 specifically to avoid some of the hardships resulting from this more expansive interpretation of section 317 by the Commission. Id.

The House Report on the 1960 amendments to the Act, H.R. Rep. No. 1800 (86<sup>th</sup> Congress, 2d Session), as reprinted in 1960 U.S.C.C.A.N. 3516, set out a number of illustrative examples intended as a guide to interpretation. These examples were included at the specific request of the FCC (see id. at 3538) (Letter from FCC Chairman Frederick W. Ford to the Honorable Oren Harris, May 20, 1960), and were reiterated without change in the FCC’s 1963 opinion, In re Applicability of Sponsorship Identification Rules, Release No. 63-409, 40 F.C.C. 141 (1963).

The illustrative examples make clear that a station’s receipt of news releases and the availability of interview subjects were never intended to trigger the sponsorship identification requirement. Example 11 explicitly states:

News releases are furnished to a station by Government, business, labor and civic organizations, and private persons, with respect to their activities, and editorial comment therefrom is used on a program. No announcement is required.

Example 19 similarly states:

A university makes one of its professors available to give lectures in an educational program series. No announcement is required.

These scenarios are precisely analogous to the situations at issue here, in which the stations (1) received video material that is the modern-day electronic equivalent of the press release and (2) were given an opportunity to interview persons made available to them by a sponsoring organization. Again, neither KABC nor WPVI received any money or anything else of value in exchange for airing any portion of VNR material or interviews made available through an SMT. And neither station promised or agreed to air anything they were provided, to do so in any particular form, or to include any mention at all, let alone any disproportionate mention, not reasonably related to the subject matter of the report, of particular organizations, products or services; the materials and invitations were provided unilaterally and unconditionally, without any corresponding obligation on the part of the stations. Thus, the *quid pro quo* that underlies the requirement of a sponsorship identification – the agreement, in exchange for valuable consideration, to promote a third party or its products or services – was entirely absent in the instant cases.

This is also not a case in which station *employees* received consideration in exchange for promotional mention. Section 507(a) of the Communications Act, 47 U.S.C. § 507(a), requires that:

... [A]ny employee of a . . . station who accepts or agrees to accept from any person (other than such station), or any person (other than such station) who pays or agrees to pay such employee, any money, service or other valuable consideration for the broadcast of any matter over such station shall, in advance of such broadcast, disclose the fact of such acceptance or agreement to such station.

Read in conjunction with section 317(c) of the Communications Act, 47 U.S.C. § 317(c), this statute would require that promotional consideration paid to station employees, rather than directly to the station, would have to be disclosed on air. This statute was implicated, for example, where radio station listeners paid station announcers personally to dedicate programs to their friends or relatives and the station did not so indicate in the broadcast. In the Matter of Liability of KMPA, Inc., Licensee of Radio Station KWAC, Bakersfield, California, for a Forfeiture, 44 F.C.C.2d 971, 29 R.R.2d 367 (1974). It would also be implicated if radio program directors or disc jockeys received cash or other property to play a particular release or performer. In this case, however, no one at the station received any personal benefit, and all that the station received was an electronic press release, or the availability of interview subjects, which do not qualify as sponsored matter in need of an on-air announcement.

The Commission's April 2005 Public Notice on video news releases in MB Docket No. 05-171 (April 13, 2005) suggests that the Commission might also rely on Sections 507(c) and 317(b) and (c), 47 U.S.C. §§ 507(c), 317(b), (c), to regulate video news releases. But these statutory provisions, too, are inapposite. Section 507(c) provides:

[A]ny person who supplies to any other person any program or program matter



. . . intended for broadcasting over any . . . station shall, in advance of such broadcast, disclose to such other person any information of which he has knowledge, or which has been disclosed to him, as to any money, service or other valuable consideration which any person has paid or accepted, or has agreed to pay or accept, for the inclusion of any matter as a part of such program or program matter.

Section 317(c) of the Act, 47 U.S.C. § 317(c), requires that a station “exercise reasonable diligence to obtain . . . from persons with whom it deals directly in connection with any program or program matter for broadcast . . . information needed to enable such licensee to make the announcement required by this section.” Accord 47 C.F.R. § 1212(b). And section 317(b), 47 U.S.C. § 317(b), mandates that if a station receives a report “of circumstances which would have required an announcement under this section had the consideration been received by such radio station, an appropriate announcement shall be made by such radio station.” Accord 47 C.F.R. § 1212(c).

These statutory provisions cannot embrace the situation of a video news release or satellite media tour. An announcement of sponsorship of third-party program matter is required under sections 317 and 507 only under circumstances that would have required an announcement had the consideration been received by the station directly or would otherwise have been required by the sponsorship ID statute. 47 U.S.C. § 317(b), (c); 47 C.F.R. § 1212(c). This cannot be the case with a station’s receipt of a free press release or electronic press kit or participation in a satellite media tour, because the illustrative examples discussed above make clear that issuing a news release to a broadcaster or making available an interview subject do not trigger the sponsor ID requirements, just as playing a record on air that was provided to a radio station by a record label without disclosing the source does not, without more, violate the sponsor ID rule.

In sum, interpreting sections 317 and 507 to render the use of materials received through an electronic press kit, VNR or SMT without full source attribution a violation of statutory sponsor ID requirements and associated FCC regulations would be a novel and unprecedented reading of these laws that is at odds with the clear intent of Congress’ 1960 amendment.<sup>1</sup> Equally important, adopting the sweeping interpretation of sections

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<sup>1</sup> Even if this construction were permissible under the statute, it represents such a sweeping change in the Commission’s own interpretation of the rules that imposition of a penalty without a full rulemaking proceeding would violate the ABC Stations’ due process rights. See, e.g., Trinity Broadcasting v. FCC, 211 F.3d 618, 632 (D.C. Cir. 2000), citing General Elec. Co. v. EPA, 53 F.2d 1324, 1333-34 (D.C. Cir. 1995). The proper venue for implementing a new, broader and significantly more onerous interpretation of a rule that carries with it significant potential penalties is not an inquiry into a particular licensee’s conduct but rather a rulemaking proceeding carrying with it notice to all potential affected broadcasters and the opportunity to be heard. The Commission’s April 2005 Public Notice did not accomplish this purpose as it neither initiated a more formal proceeding nor articulated clear guidelines as to what sponsor identification was expected of stations that receive VNRs or participate in SMT



317 and 507 that is proposed would put the FCC in the highly inappropriate position of being an arbiter of good journalism rather than an enforcer of existing sponsor ID rules. The Commission and the courts have emphasized many times that the First Amendment guarantees broadcasters a great degree of editorial discretion, particularly in the coverage of news and public affairs. As the Commission recently observed:

[W]e recognize the need for caution with respect to complaints implicating the editorial judgment of broadcast licensees in presenting news and public affairs programming, as these matters are at the core of the First Amendment's free press guarantee.

Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005, 21 FCC Rcd. 2664 at ¶ 19 (2006). See also, e.g., Syracuse Peace Council, 2 FCC Rcd. 5043 (1987) (concluding that fairness doctrine violated broadcasters' First Amendment rights); In re Application of American Broadcasting Companies, Inc., for Renewal of License of Station KGO-TV, San Francisco, California, 83 F.C.C.2d 302, 305 (1980) ("[t]he choice of what is or is not to be covered in the presentation of broadcast news is a matter committed to the licensee's good faith discretion" and "the Commission will not review the licensee's news judgments"); In re Dr. Paul Klite Letter re: Applications for Renewal of Licenses of Television Stations at Denver, Colorado ("Rocky Mountain Media Watch"), 12 Comm. Reg. (P&F) 79, 1998 FCC LEXIS 2089, \*11 (1998) ("[b]ecause journalistic or editorial discretion in the presentation of news and public information is the core concept of the First Amendment's Free Press guarantee, licensees are entitled to the widest latitude of journalistic discretion in this regard"). See also Columbia Broadcasting System, Inc. v. Democratic National Committee, 412 U.S. 94, 124-25 (1983):

For better or worse, editing is what editors are for; and editing is selection and choice of material. That editors -- newspaper and broadcast -- can and do abuse this power is beyond doubt but . . . the presence of these risks of abuse are taken in order to preserve higher values.

Journalists -- broadcast and non-broadcast -- receive materials and information from many sources in a wide range of circumstances and interview sources with a wide variety of perspectives and affiliations every day. In addition to VNRs of all different types and from all different sources (government agencies, corporations, industry associations, not-for-profit organizations, individuals and other media), journalists receive written statements and press releases, movie clips, product samples, publicity photos, personal photos and videos, and other source material from equally varied sources for possible reference or inclusion in news. Outside the SMT situation, journalists continually interview people affiliated with particular organizations or entities. Nothing in the sponsorship ID statute or rule, or the legislative history thereto, indicates that the

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interviews but do not receive any consideration for airing material from the VNRs or SMTs.

Legislature or the Commission intended to legislate or regulate the manner in which all such source material and interview subjects are identified on air.

For the Commission to make broadcast journalists strictly responsible for the motives and connections of their sources, and to closely regulate the way in which broadcast journalists use and identify source material and information, would inject the agency into protected newsgathering and editorial activities to an unprecedented and inappropriate degree in clear conflict with those journalists' First Amendment rights. The Commission should proceed with great caution in this area of protected journalistic activity and assert itself only in those situations that present a demonstrated violation of Section 317 or 507 because the broadcaster has accepted financial or other valuable consideration beyond the material itself in exchange for a promise of promotional mention. For the Commission to go beyond the plain meaning and legislative intent of the statutes under which it is purporting to exercise its authority in this proceeding and to regulate the means by which news interview subjects and video are identified on air would be a dangerous incursion into journalistic standards and practices and would implicate the most fundamental area of first amendment freedoms.

Respectfully yours,

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**Transcript of 11/23/05 WPVI-TV Action News Segment re: "Toy Trends"**

Every year has its own set of hot toys, and experts agree, Santa will be hearing a lot of requests for high-tech this year.

Fortunately, high-tech need not be high-priced.

One anticipated big seller: Hide 'n Seek Haley: a doll with a built-in homing device, and a walkie talkie for your child.

*[WPVI Graphic: Cory Greenberg, Tech Expert]*

Hide 'n Seek Haley has a little homing beacon inside, and when your child presses the button on this remote control, the walkie talkie, he actually hears Haley telling your child whether your child is getting warmer or colder.

Hide 'n Seek Haley is under 30 dollars, as is the new Frosty the Snowman at Build-a-Bear Workshop. His cheeks glow red when you touch him.

If the cost of video games bugs you, here are some answers. For \$14.95 a month, the new Gametap website offers unlimited use of more than 300 games.

*[WPVI Graphic: David Gregg, Video Gaming Expert]*

You don't use the keys on your keyboard, you can use basically a myriad of different controllers that emulate the exact game because the games you're playing are licensed directly from the creators.

You miss those older games like Dig-Dug? Home system pioneers Atari, Intellivision and Coleco all have new retro consoles for next to nothing.

*[WPVI Graphic: Robin Raskin, The Internet Mom]*

Coleco from Techno Source – your twelve favorite arcade games for \$19.99 – you have no compatibility issues because you can plug it into the television and you're all set.

And speaking of retro, remember Furby? The hot seller of the 90s is back with a feature Mom and Dad have to love!

*[WPVI Graphic: Scott McCall, Toy Expert, Walmart]*

You may remember it as one of the hottest toys in the 90s. And the best thing for parents about Furby is that it now has an on-off switch, so you can actually turn Furby off, and that's gonna be great.

## Transcript of 9/27/05 KABC-TV News Segment

Healthy Living: Consistent Colds

On Camera:

Denise Dador: More than 50 million Americans suffer with allergies and the numbers are growing especially among children. Again, this is a simple blood test called ImmunoCAP and that what we're going to tell about right now.

Denise recorded track:

Taylor doesn't feel well but at least now she and her mom know why.

Dr. Dean Mitchell: It's terrible when parents see that their child is sick all the time and not getting an answer. They will go to the pediatrician and get antibiotics frequently when the true in line cause may be allergies and a whole different treatment is required.

Dr. Dean Mitchell: Hi Taylor, How are you.

Taylor: Good.

Dr. Dean Mitchell: We're going to check you for your allergies today?

Taylor: Yes.

Denise recorded track: Taylor developed chronic congestion and itchy eyes at a young age. Adding to her misery and her parents' concern: frequent outbreaks of eczema or skin rashes.

Mother: It made me feel miserable because she was miserable.

Dr. Dean Mitchell: It's crucial to identify children with allergies early on because studies now show that we can prevent children from developing the later complications of allergic disease like asthma and chronic sinusitis.

Denise recorded track: Common triggers include dust, grass, cats and their family dog.  
**(KABC-TV produced graphic)**

Dr. Dean Mitchell: The process of being allergy tested today is simple. You can go to your general doctor or pediatrician have a blood sample drawn which will be done by the ImmunoCAP testing and sent to Quest Labs and within two to three days you will have an answer as to whether or not your child is allergic and to specifically to what he is allergic to.

Denise recorded track: By identifying allergies using ImmunoCAP doctors can develop and avoidance strategy so that children minimize their exposure to triggers. Avoiding even a few of these triggers makes children less likely to develop asthma or have an asthma attack.

Mother: So we're able to keep our dog; still, she can't have ketchup or peanut butter or wheat bread. We just kinda limit her to certain things that she is able to do so that she can live in the house with the dog and be OK.

On Camera:

Denise: Again, talk to your doctor about the blood test. It is called ImmunoCAP and results come in two to three days, which means peace of mind for many parents out there.